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Attorneys for Plaintiff Zoya Kovalenko (pending withdrawal)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

ZOYA KOVALENKO,

Plaintiff,

v.

KIRKLAND & ELLIS LLP, MICHAEL DE
VRIES, MICHAEL W. DEVRIES, P.C.,
ADAM ALPER, ADAM R. ALPER, P.C.,
AKSHAY DEORAS, AKSHAY S.
DEORAS, P.C., AND MARK FAHEY,

Defendants.

) Case No.: 22-cv-05990-HSG

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) **DECLARATION OF TANVIR H.
RAHMAN IN SUPPORT OF CROSS-
MOTION TO WITHDRAW AS
COUNSEL AND TO COMPEL
ARBITRATION, PRELIMINARY,
STATEMENT IN OPPOSITION, AND
REQUEST FOR EVIDENTIARY
HEARING EX PARTE**

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) Accompanying Documents:

) Notice of Cross-Motions and Cross-Motions to

) Withdraw and Compel Arbitration

) [Proposed] Order

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1 I, TANVIR H. RAHMAN, declare:

2 1. I am an attorney at law in good standing and licensed to practice law in the States
3 of New York and New Jersey, admitted to practice in this Court *pro hac vice*, and a Partner at
4 Filippatos PLLC. I have represented Plaintiff Zoya Kovalenko in this case, with the assistance of
5 local counsel Hennig Kramer LLP. If called as a witness, I would and could competently testify
6 to the following facts, all of which are within my own personal knowledge.
7

8 2. Ms. Kovalenko formally retained Filippatos PLLC in July 2023. On November 8,
9 2023, local counsel, Hennig Kramer LLP, appeared in this action and sponsored my application
10 for *pro hac vice* admission into this Court, which was granted on November 9, 2023. *See* Dkt. Nos.
11 108 and 109.

12 3. Since then, Filippatos PLLC, with local counsel Hennig Kramer LLP as needed,
13 has dutifully and zealously litigated this matter before this Court and steadfastly represented Ms.
14 Kovalenko's interests against her former employer, Defendant Kirkland & Ellis, LLP. In retaining
15 Filippatos PLLC for legal services, Ms. Kovalenko signed a Retainer Agreement granting
16 Filippatos PLLC a 40% contingency interest in any settlement or award achieved in relation to Ms.
17 Kovalenko's claims, and providing that Ms. Kovalenko would reasonably cooperate with
18 Filippatos PLLC in its legal representation of her, as well as carefully consider the legal advice
19 she received from Filippatos PLLC.
20

21 4. In October 2024, the instant action was referred to private Alternative Dispute
22 Resolution. A mediation with JAMS mediator Dina Jansenson, Esq. was scheduled for and took
23 place on November 22, 2024. It was during the course of subsequent resolution-related discussions
24 pursuant to the mandatory ADR process that the attorney-client relationship between Filippatos
25 PLLC and Zoya Kovalenko became irretrievably broken beyond repair due to Ms. Kovalenko's
26 refusal to cooperate with Filippatos PLLC and carefully consider the legal advice it provided her.
27
28

1 5. On January 23, 2025, Ms. Kovalenko notified Filippatos PLLC that she was
2 terminating the firm as her counsel. While Ms. Kovalenko has every right to engage counsel of
3 her choice, but not to avoid paying Filippatos PLLC the legal fees to which it is entitled and has
4 earned. Ms. Kovalenko seeks to fashion her termination of our firm’s legal service as “for cause.”

5
6 6. Before we were able to file the instant Motion for Withdrawal, on January 29, 2025,
7 Ms. Kovalenko filed her Termination For Cause Motion at Dkt. 171, which she seeks an order
8 from this Court finding that she had “cause” to terminate Filippatos PLLC as her counsel. With
9 regard to Ms. Kovalenko’s request that Filippatos PLLC be terminated as her counsel of record in
10 this action, we have no objection to this request and, indeed, are cross-moving (along with local
11 counsel Hennig Kramer LLP) to withdraw as her counsel.

12
13 7. In the alternative, if the Court declines to grant Filippatos PLLC’s motion to
14 withdraw as Ms. Kovalenko’s counsel, the Court should decline to entertain or exercise jurisdiction
15 over the disputes raised in Ms. Kovalenko’s Termination For Cause Motion as these disputes
16 should properly be before an arbitrator and not this Court pursuant to the express terms of the
17 Retainer Agreement. Specifically, pursuant to the terms of the Retainer Agreement, the proper
18 forum to adjudicate what is essentially a fee dispute is not in this Court but in arbitration. The
19 Retainer Agreement at page states that, “All other types of fee or billing disputes that may arise
20 between us that cannot be resolved informally shall be settled by final and binding arbitration in
21 New York City before a single arbitrator in accordance with the Rules of JAMS ADR ...”). Dkt.
22 No. 171-3.

23
24 8. Likewise, with respect to Ms. Kovalenko’s request raised in her Termination For
25 Cause Motion that the Court order Filippatos PLLC to provide her with her “client file,” this too
26 is a billing dispute that must be resolved in arbitration pursuant to the terms of the Retainer
27 Agreement, requiring this Court to decline to exercise jurisdiction thereof. Indeed, we have
28 already notified Ms. Kovalenko in writing that, due to her failure to pay her outstanding legal

1 expenses, we have asserted a retaining lien on her “client file.” As soon as Ms. Kovalenko fully
2 complies with her obligation to pay her outstanding legal expenses, the retaining lien will be
3 satisfied and her client file promptly released.

4 9. I declare under penalty of perjury under the laws of the State of California and the
5 United States of America that the foregoing is true and correct.
6

7 Dated: January 31, 2025

Respectfully submitted,

8 **FILIPPATOS PLLC**

9
10 By: 

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(pending withdrawal)*